

HOUSE BILL 315

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HB 68/98 - JUD

1999 Regular Session
9lr0422
CF 9lr0082

By: **Delegates Hixson, Barve, Barkley, Billings, Bronrott, Brown, Cane,
Carlson, Dembrow, Doory, Franchot, Frush, Goldwater, Bobo, Grosfeld,
Hammen, Heller, Howard, Hubbard, Hurson, A. Jones, V. Jones, Kagan,
Krysiak, Kopp, Mandel, Menes, McIntosh, Moe, Nathan-Pulliam,
Pendergrass, Petzold, Proctor, Rawlings, Shriver, Stern, and Turner**

Introduced and read first time: February 4, 1999
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Antidiscrimination Act**

3 FOR the purpose of prohibiting discrimination based on sexual orientation with
4 regard to public accommodations, housing, and employment; making certain
5 remedies and procedures regarding discrimination applicable to discrimination
6 based on sexual orientation; defining "sexual orientation"; making certain
7 technical changes; and generally relating to discrimination on the basis of
8 sexual orientation.

9 BY repealing and reenacting, with amendments,
10 Article 49B - Human Relations Commission
11 Section 5(a) and (b), 8(a), 14, 16, 19(a), 20(t), 22(a), 23, and 37(a)
12 Annotated Code of Maryland
13 (1998 Replacement Volume)

14 BY adding to
15 Article 49B - Human Relations Commission
16 Section 15(h) and 20(u)
17 Annotated Code of Maryland
18 (1998 Replacement Volume)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article 49B - Human Relations Commission**

22 5.

23 (a) It is unlawful for an owner or operator of a place of public accommodation
24 or an agent or employee of the owner or operator, because of the race, creed, sex, age,

1 color, national origin, marital status, SEXUAL ORIENTATION, or physical or mental
2 handicap, of any person, to refuse, withhold from, or deny to such person any of the
3 accommodations, advantages, facilities and privileges of such place of public
4 accommodation.

5 (b) Nothing in this section shall be construed or interpreted to prohibit the
6 proprietor of any establishment, or the employees of the establishment, from the right
7 to deny service to any person for failure to conform to the usual and regular
8 requirements, standards and regulations for the establishment so long as the denial
9 is not based upon discrimination on the grounds of race, sex, age, color, creed,
10 national origin, marital status, SEXUAL ORIENTATION, or physical or mental
11 handicap.

12 8.

13 (a) It is unlawful for any person, business, corporation, partnership,
14 copartnership or association or any other individual, agent, employee, group or firm
15 which is licensed or regulated by a unit in the Department of Labor, Licensing, and
16 Regulation as set out in § 2-108 of the Business Regulation Article to refuse, withhold
17 from, deny or discriminate against any person the accommodations, advantages,
18 facilities, privileges, sales, or services because of the race, sex, creed, color, national
19 origin, marital status, SEXUAL ORIENTATION, or physical or mental handicap of any
20 person. Nothing in this section shall be construed or interpreted to prohibit any
21 person, business, corporation, partnership, copartnership, association or any other
22 individual, agent, employee, group or firm which is licensed or regulated by the
23 Department of Labor, Licensing, and Regulation from the right to refuse, withhold
24 from, or deny any person for failure to conform to the usual and regular
25 requirements, standards, and regulations of any person, business, corporation,
26 partnership, copartnership, or association contemplated by this section so long as the
27 denial is not based upon discrimination on the grounds of race, sex, color, creed, [or]
28 national origin, marital status, SEXUAL ORIENTATION, or physical or mental
29 handicap.

30 14.

31 It is hereby declared to be the policy of the State of Maryland, in the exercise of
32 its police power for the protection of the public safety, public health and general
33 welfare, for the maintenance of business and good government and for the promotion
34 of the State's trade, commerce and manufacturers to assure all persons equal
35 opportunity in receiving employment and in all labor management-union relations
36 regardless of race, color, religion, ancestry or national origin, sex, age, marital status,
37 SEXUAL ORIENTATION, or physical or mental handicap unrelated in nature and
38 extent so as to reasonably preclude the performance of the employment, and to that
39 end to prohibit discrimination in employment by any person, group, labor
40 organization, organization or any employer or his agents.

1 15.

2 For the purposes of this subtitle:

3 (H) "SEXUAL ORIENTATION" MEANS:

4 (I) THE IDENTIFICATION OF AN INDIVIDUAL AS TO MALE OR
5 FEMALE HOMOSEXUALITY, HETEROSEXUALITY, OR BISEXUALITY; OR

6 (II) HAVING OR BEING PERCEIVED AS HAVING AN IDENTITY,
7 EXPRESSION, OR PHYSICAL CHARACTERISTIC NOT TRADITIONALLY ASSOCIATED
8 WITH AN INDIVIDUAL'S BIOLOGICAL SEX OR SEX AT BIRTH.

9 16.

10 (a) It shall be an unlawful employment practice for an employer:

11 (1) To fail or refuse to hire or to discharge any individual, or otherwise to
12 discriminate against any individual with respect to his compensation, terms,
13 conditions, or privileges of employment, because of such individual's race, color,
14 religion, sex, age, national origin, marital status, SEXUAL ORIENTATION, or physical
15 or mental handicap unrelated in nature and extent so as to reasonably preclude the
16 performance of the employment; or

17 (2) To limit, segregate, or classify his employees or applicants for
18 employment in any way which would deprive or tend to deprive any individual of
19 employment opportunities or otherwise adversely affect his status as an employee,
20 because of the individual's race, color, religion, sex, age, national origin, marital
21 status, SEXUAL ORIENTATION, or physical or mental handicap unrelated in nature
22 and extent so as to reasonably preclude the performance of the employment[;].

23 (b) It shall be an unlawful employment practice for an employment agency to
24 fail or refuse to refer for employment, or otherwise to discriminate against, any
25 individual because of his race, color, religion, sex, age, national origin, marital status,
26 SEXUAL ORIENTATION, or physical or mental handicap unrelated in nature and
27 extent so as to reasonably preclude the performance of the employment, or to classify
28 or refer for employment any individual on the basis of his race, color, religion, sex,
29 age, national origin, marital status, SEXUAL ORIENTATION, or physical or mental
30 handicap unrelated in nature and extent so as to reasonably preclude the
31 performance of the employment[;].

32 (c) It shall be an unlawful employment practice for a labor organization: (1) to
33 exclude or to expel from its membership, or otherwise to discriminate against, any
34 individual because of his race, color, religion, sex, age, national origin, marital status,
35 SEXUAL ORIENTATION, or physical or mental handicap unrelated in nature and
36 extent so as to reasonably preclude the performance of the employment; (2) to limit,
37 segregate or classify its membership, or to classify or fail or refuse to refer for
38 employment any individual, in any way which would deprive or tend to deprive any
39 individual of employment opportunities, or would limit such employment
40 opportunities or otherwise adversely affect his status as an employee or as an

1 applicant for employment, because of such individual's race, color, religion, sex, age,
2 national origin, marital status, SEXUAL ORIENTATION, or physical or mental
3 handicap unrelated in nature and extent so as to reasonably preclude the
4 performance of the employment; or (3) to cause or attempt to cause an employer to
5 discriminate against an individual in violation of this section[;].

6 (d) It shall be an unlawful employment practice for any employer, labor
7 organization, or joint labor-management committee controlling apprenticeship or
8 other training or retraining, including on-the-job training programs to discriminate
9 against any individual because of his race, color, religion, sex, age, national origin,
10 marital status, SEXUAL ORIENTATION, or physical or mental handicap unrelated in
11 nature or extent so as to reasonably preclude the performance of the employment in
12 admission to, or employment in, any program established to provide apprenticeship or
13 other training[;].

14 (e) It is an unlawful employment practice for an employer, labor organization,
15 or employment agency to print or cause to be printed or published any notice or
16 advertisement relating to employment by the employer or membership in or any
17 classification or referral for employment by the labor organization, or relating to any
18 classification or referral for employment by the agency, indicating any preference,
19 limitation, specification, or discrimination, based on race, color, religion, sex, age,
20 national origin, SEXUAL ORIENTATION, or on the basis of a physical or mental
21 qualification. However, a notice or advertisement may indicate a preference,
22 limitation, specification, or discrimination based on religion, sex, age, national origin
23 or physical or mental qualification when religion, sex, age, national origin or physical
24 or mental qualification is a bona fide occupational qualification for employment[;].

25 (f) It is an unlawful employment practice for an employer to discriminate
26 against any of his employees or applicants for employment, for an employment agency
27 to discriminate against any individual, or for a labor organization to discriminate
28 against any member thereof or applicant for membership, because he has opposed
29 any practice made an unlawful employment practice by this subtitle or because he
30 has made a charge, testified, assisted, or participated in any manner in an
31 investigation, proceeding, or hearing under this subtitle[;].

32 (g) Notwithstanding any other provision of this subtitle, (1) it is not an
33 unlawful employment practice for an employer to hire and employ employees, for an
34 employment agency to classify, or refer for employment any individual, for a labor
35 organization to classify its membership or to classify or refer for employment any
36 individual, or for an employer, labor organization or joint labor-management
37 committee controlling apprenticeship or other training or retraining programs to
38 admit or employ any individual in any such program, on the basis of his religion,
39 national origin or physical or mental qualification in those instances where sex, age,
40 religion, national origin or physical or mental qualification is a bona fide occupational
41 qualification reasonably necessary to the normal operation of that particular business
42 or enterprise; (2) it is not an unlawful employment practice for an employer to
43 establish standards concerning an employee's dress and grooming if the standards are
44 directly related to the nature of the employment of the employee; (3) it is not an
45 unlawful employment practice for a school, college, university, or other educational

1 institution or institution of learning to hire and employ employees of a particular
2 religion if the school, college, university, or other educational institution or institution
3 of learning is, in whole or in substantial part, owned, supported, controlled, or
4 managed by a particular religion or by a particular religious corporation, association,
5 or society or if the curriculum of the school, college, university, or other educational
6 institution or institution of learning is directed toward the propagation of a particular
7 religion; and (4) it is not unlawful for an employer, employment agency or labor
8 organization to observe the terms of a bona fide seniority system or any bona fide
9 employee benefit plan such as a retirement, pension or insurance plan, which is not a
10 subterfuge to evade the purposes of this subtitle; however, no employee benefit plan
11 shall excuse the failure to hire any individual[;].

12 (h) Nothing contained in this subtitle shall be interpreted to require any
13 employer, employment agency, labor organization, or joint labor-management
14 committee subject to this subtitle to grant preferential treatment to any individual or
15 to any group because of the race, color, religion, sex, age, national origin, SEXUAL
16 ORIENTATION, or physical or mental handicap of the individual or group on account of
17 an imbalance which may exist with respect to the total number or percentage of
18 persons of any race, color, religion, sex, age, national origin, SEXUAL ORIENTATION, or
19 physically or mentally handicapped persons employed by any employer, referred or
20 classified for employment by any employment agency or labor organization, admitted
21 to membership or classified by any labor agency or labor organization, admitted to
22 membership or classified by any labor organization, or admitted to, or employed in,
23 any apprenticeship or other training program, in comparison with the total number or
24 percentage of persons of such race, color, religion, sex, age, national origin, SEXUAL
25 ORIENTATION, or physically or mentally handicapped persons in any community,
26 State, section, or other area, or in the available work force in any community, State,
27 section, or other area.

28 19.

29 (a) It is the policy of the State of Maryland to provide for fair housing
30 throughout the State of Maryland, to all its citizens, regardless of race, color, religion,
31 sex, familial status, national origin, marital status, SEXUAL ORIENTATION, or
32 handicap; and to that end to prohibit discriminatory practices with respect to
33 residential housing by any person or group of persons, in order that the peace, health,
34 safety, prosperity and general welfare of all the inhabitants of the State may be
35 protected and insured.

36 20.

37 (t) "Restrictive covenants" means any specification limiting the transfer,
38 rental, or lease of any dwelling because of race, color, religion, marital status, SEXUAL
39 ORIENTATION, sex, familial status, handicap, or national origin.

40 (U) "SEXUAL ORIENTATION" MEANS:

41 (I) THE IDENTIFICATION OF AN INDIVIDUAL AS TO MALE OR
42 FEMALE HOMOSEXUALITY, HETEROSEXUALITY, OR BISEXUALITY; OR

1 (II) HAVING OR BEING PERCEIVED AS HAVING AN IDENTITY,
2 EXPRESSION, OR PHYSICAL CHARACTERISTIC NOT TRADITIONALLY ASSOCIATED
3 WITH AN INDIVIDUAL'S BIOLOGICAL SEX OR SEX AT BIRTH.

4 22.

5 (a) Except as provided in § 21 of this subtitle, it is unlawful:

6 (1) To refuse to sell or rent after the making of a bona fide offer, or to
7 refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a
8 dwelling to any person because of race, color, religion, sex, handicap, marital status,
9 familial status, SEXUAL ORIENTATION, or national origin;

10 (2) To discriminate against any person in the terms, conditions, or
11 privileges of sale or rental of a dwelling, or in the provision of services or facilities in
12 connection with the sale or rental of a dwelling, because of race, color, religion, sex,
13 handicap, marital status, familial status, SEXUAL ORIENTATION, or national origin;

14 (3) To make, print, or publish, or cause to be made, printed, or published
15 any notice, statement, or advertisement, with respect to the sale or rental of a
16 dwelling that indicates any preference, limitation, or discrimination based on race,
17 color, religion, sex, handicap, marital status, familial status, SEXUAL ORIENTATION,
18 or national origin, or an intention to make any preference, limitation, or
19 discrimination;

20 (4) To represent to any person because of race, color, religion, sex,
21 handicap, marital status, familial status, SEXUAL ORIENTATION, or national origin
22 that any dwelling is not available for inspection, sale, or rental when the dwelling is
23 in fact available;

24 (5) For profit, to induce or attempt to induce any person to sell or rent
25 any dwelling by representations regarding the entry or prospective entry into the
26 neighborhood of a person or persons of a particular race, color, religion, sex, handicap,
27 marital status, familial status, SEXUAL ORIENTATION, or national origin;

28 (6) To discriminate in the sale or rental, or otherwise make unavailable
29 or deny, a dwelling to any buyer or renter because of a handicap of:

30 (i) The buyer or renter; or

31 (ii) A person residing in or intending to reside in the dwelling after
32 it is so sold, rented, or made available;

33 (7) To discriminate against any person in the terms, conditions, or
34 privileges of sale or rental of a dwelling, or in the provision of services or facilities in
35 connection with the dwelling, because of a handicap of:

36 (i) The person; or

1 (ii) A person residing in or intending to reside in the dwelling after
2 it is so sold, rented, or made available;

3 (8) To refuse to permit, at the expense of the handicapped person,
4 reasonable modifications of existing premises occupied or to be occupied by the
5 individual if:

6 (i) The modifications may be necessary to afford the handicapped
7 person full enjoyment of the dwelling; and

8 (ii) For a rental dwelling, the tenant agrees, at the tenant's
9 expense, to restore, reasonable wear and tear excepted, the interior of the dwelling to
10 the condition that existed before the modification on vacating the dwelling;

11 (9) To refuse to make reasonable accommodations in rules, policies,
12 practices, or services when the accommodations may be necessary to afford a
13 handicapped individual equal opportunity to use and enjoy a dwelling; or

14 (10) To fail to design or construct a covered multifamily dwelling for first
15 occupancy as required under subsection (b) of this section.

16 23.

17 (a) (1) It is unlawful for any person or other entity whose business includes
18 engaging in residential real estate related transactions to discriminate against any
19 person in making available a transaction, or in the terms or conditions of a
20 transaction, because of race, color, religion, sex, handicap, marital status, familial
21 status, SEXUAL ORIENTATION, or national origin.

22 (2) Nothing in paragraph (1) of this subsection prohibits a person
23 engaged in the business of furnishing appraisals of real property to take into
24 consideration factors other than race, color, religion, national origin, sex, handicap,
25 marital status, SEXUAL ORIENTATION, or familial status.

26 (b) It is unlawful, because of race, color, religion, sex, handicap, marital
27 status, familial status, SEXUAL ORIENTATION, or national origin, to deny a person
28 access to or membership or participation in a multiple-listing service, real estate
29 brokers' organization or other service, organization, or facility relating to the business
30 of selling or renting dwellings, or to discriminate against a person in the terms or
31 conditions of membership or participation.

32 37.

33 (a) Whether or not acting under color of law it is unlawful for any person, by
34 force or threat of force, to willfully injure, intimidate, interfere with, or attempt to
35 injure, intimidate, or interfere with:

36 (1) Any person because of race, color, religion, sex, handicap, marital
37 status, familial status, SEXUAL ORIENTATION, or national origin and because the
38 person is or has been:

1 (i) Selling, purchasing, renting, financing, occupying, or
2 contracting or negotiating for the sale, purchase, rental, financing, or occupation of
3 any dwelling; or

4 (ii) Applying for or participating in any service, organization, or
5 facility relating to the business of selling or renting dwellings; [or]

6 (2) Any person because the person is or has been, or in order to
7 intimidate the person or any other person or any class of persons from:

8 (i) Participating without discrimination on account of race, color,
9 religion, sex, handicap, marital status, familial status, SEXUAL ORIENTATION, or
10 national origin in any of the activities, services, organizations, or facilities described
11 in paragraph (1) of this subsection; or

12 (ii) Affording another person or class of persons the opportunity or
13 protection to participate in any of the activities, services, organizations or facilities
14 described in paragraph (1) of this subsection; or

15 (3) Any person because the person is or has been, or in order to
16 discourage the person or any other person from:

17 (i) Lawfully aiding or encouraging other persons to participate,
18 without discrimination on account of race, color, religion, sex, handicap, marital
19 status, familial status, SEXUAL ORIENTATION, or national origin, in any of the
20 activities, services, organizations, or facilities described in paragraph (1) of this
21 subsection; or

22 (ii) Participating lawfully in speech or peaceful assembly opposing
23 any denial of the opportunity to participate in any of the activities, services,
24 organizations or facilities described in paragraph (1) of this subsection.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 1999.